

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

KEVIN KEITH,

Petitioner,

v.

LYLEAL WAINWRIGHT, WARDEN,

Respondent.

Case No. 1:18-cv-00634

Judge Solomon Oliver, Jr.

Magistrate Judge James R. Knepp, II

PETITIONER KEVIN KEITH'S MOTION FOR STATUS CONFERENCE

Petitioner Kevin Keith respectfully requests that this Court schedule an in-person status conference for the above-captioned case.

Keith requests this conference to discuss the issues that have arisen from the transfer of his petition back to this Court, most notably the scope of evidence that this Court is allowed to consider. In support of his Application for Order Authorizing the District Court to Consider His Second or Successive Application for Relief, Keith needed to make a prima facie showing under 28 U.S.C. § 2244(b)(2). The Sixth Circuit determined that Keith's application made this showing, "warrant[ing] a fuller exploration in the district court." *In re Keith*, 2018 U.S. App. LEXIS 30517, at *19 (6th Cir. Oct. 26, 2018) (internal citations omitted).

The parties have adopted vastly different positions as to how the "fuller exploration" should be conducted. Now that his successor petition is before this Court for review on the merits, Keith has filed exhibits in support of his traverse, ECF 28, Exs. 1-29, and moved this Court to expand the record with those exhibits under Habeas Rule 7, ECF 32. Throughout her Sur-Reply and Motion to Strike, the Warden has repeatedly asserted that this Court is constrained from considering any such evidence. ECF 31, 32.

Because successor applications are rarely authorized, there is limited precedent regarding how these cases should proceed in the district courts, particularly regarding expansion of the record and the need for an evidentiary hearing. Keith suggests that an in-person conference with both parties and this Court will allow this litigation to proceed without undue delay or unnecessary motion practice.

Wherefore, Petitioner Kevin Keith, by and through undersigned counsel, for good cause shown, hereby requests the Court convene a status conference.

Dated: June 20, 2019

Respectfully submitted,

/s/ James R. Wooley

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 20, 2019, a copy of the foregoing Motion for Status Conference was filed electronically with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ James R. Wooley
Attorney for Petitioner